

1 C. CHRISTINE MALONEY (State Bar No. 226575)  
2 FOSTER EMPLOYMENT LAW  
3 3000 Lakeshore Avenue  
4 Oakland, California 94610  
5 Telephone: (510) 763-1900  
6 Facsimile: (510) 763-5952  
7 Email: [cmaloney@fosteremploymentlaw.com](mailto:cmaloney@fosteremploymentlaw.com)

8 Attorneys for Defendants  
9 CITY OF RICHMOND AND CHRISTOPHER MAGNUS

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

DEDRICK RILEY, ) Case No. 3:13-cv-04752-MMC  
vs. )  
Plaintiff, ) **DEFENDANTS' REQUEST FOR**  
 ) **JUDICIAL NOTICE IN SUPPORT OF**  
 ) **MOTION FOR JUDGMENT AS A**  
 ) **MATTER OF LAW – FRCP 12(C)**  
THE CITY OF RICHMOND, a public )  
entity, CHRISTOPHER MAGNUS, an ) Hearing Date: April 8, 2016  
individual, and DOES 1-50, inclusive, ) Time: 9:00 a.m.  
Defendants. ) Courtroom: 7, 19<sup>th</sup> Floor  
 ) Judge: Hon. Maxine M. Chesney  
 ) Complaint Filed: October 11, 2013  
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Defendants CITY OF RICHMOND and CHRISTOPHER MAGNUS ("Defendants"), by and through their attorneys of record, hereby request this court take judicial notice of the court filings identified below and attached hereto.

Pursuant to Federal Rule of Evidence 201(b), a district court may take judicial notice of matters that are indisputable because they are capable of immediate and accurate verification through reliable sources. FRE 201(b). Judicial notice is the court's recognition of the existence of a fact without the necessity of formal proof. *Castillo-Villagra v. I.N.S.*, 972 F.2d 1017, 1026 (9<sup>th</sup> Cir. 1992).

1       In considering a party's *res judicata* defense, a court may take judicial notice of motions and  
2 memoranda filed in a different lawsuit. *MGIC Indem. Corp. v. Weisman*, 803 F.2d 500, 504 (9<sup>th</sup> Cir.  
3 1986). A court may also take judicial notice of the plaintiff's prior complaints and the orders  
4 dismissing them. *Commodity Futures Trading Comm'n v. Co. Petro Marketing Group, Inc.*, 680  
5 F.2d 573, 584 (9<sup>th</sup> Cir. 1982). Doing so does not convert the Rule 12 motion into one for summary  
6 judgment. *Barron v. Reich*, 13 F.3d 1370, 1377 (9<sup>th</sup> Cir. 1994).

7       Therefore, pursuant to these authorities, Defendants request that judicial notice be taken of  
8 the following court filings:

9 **Riley I**

10      **A. Exhibit A** is a true and correct copy of the original Complaint filed on August 1, 2007 in  
11 the matter *Dedrick A. Riley v. City of Richmond et al.*, Contra Costa Superior Court Case  
12 No. C07-01753 ("Riley I").

13 **Riley II**

14      **B. Exhibit B** is a true and correct copy of the original Complaint filed on September 28,  
15 2010 in the matter *Dedrick A. Riley v. City of Richmond et al.*, Contra Costa Superior  
16 Court Case No. C10-02843 ("Riley II").

17      **C. Exhibit C** is the First Amended Complaint filed on January 21, 2014 in *Riley II*.

18      **D. Exhibit D** is a true and correct copy of the City of Richmond's Notice of Motion and  
19 Motion for Summary Judgment or, in the Alternative, Summary Adjudication filed on  
20 June 1, 2015.

21      **E. Exhibit E** is a true and correct copy of the City of Richmond's Separate Statement of  
22 Undisputed Material Facts in Support of the City's Motion for Summary Judgment or, in  
23 the Alternative, Summary Adjudication.

24      **F. Exhibit F** is a true and correct copy of the Declaration of William Lindsay In Support of  
25 Defendant's Motion for Summary Judgment or Summary Adjudication.

26      **G. Exhibit G** is a true and correct copy of Plaintiff's Memorandum of Points and  
27 Authorities in Opposition to the City's Motion for Summary Judgment.

1           **H. Exhibit H** is a true and correct copy of Plaintiff's Separate Statement of Facts in  
2           Opposition to the City's Motion for Summary Judgment.

3           **I. Exhibit I** is a true and correct copy of the Reply Memo in Support of the City's Motion  
4           for Summary Judgment or, in the Alternative, Summary Adjudication.

5           **J. Exhibit J** is a true and correct copy of the City's Response to Plaintiff's Separate  
6           Statement of Facts.

7           **K. Exhibit K** is a true and correct copy of the September 21, 2015 Superior Court order  
8           granting summary judgment to the City.

9           **L. Exhibit L** is a true and correct copy of the Notice of Entry of Judgment and Judgment  
10           entered against Plaintiff.

11           **Riley III**

12           **M. Exhibit M** is a true and correct copy of the July 3, 2014 Third Amended Complaint in  
13           this action.

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15           DATED: March 4, 2016

FOSTER EMPLOYMENT LAW

16           */s/ C. Christine Maloney*

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18           C. CHRISTINE MALONEY  
19           Attorneys for Defendants  
20           CITY OF RICHMOND and  
21           CHRISTOPHER MAGNUS